

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of)	
)	
RCN Corporation)	CSR-8166
Petition for Special Relief)	
)	
)	

ORDER

Adopted: October 9, 2009

Released: October 19, 2009

By the Chief, Media Bureau:

I. INTRODUCTION

1. We have before us a petition from RCN Corporation¹ ("RCN") for relief for its all-digital systems from the performance test requirement contained in Section 76.601 of the Commission's rules.² Section 76.605(b) of the Commission's rules provides that if a cable system's basic design is incompatible with one or more of the technical standards set forth in Section 76.605(a), relief may be granted upon an adequate showing that such relief will benefit the public interest. RCN maintains that the all-digital technology employed by the specified cable systems falls within the scope of this provision.³ The systems at issue provide cable television services in the New York, New York; Boston, Massachusetts; Chicago, Illinois; and Washington, District of Columbia markets.⁴ RCN's request was placed on public notice on June 5, 2009, and generated no comments.⁵

II. DISCUSSION

2. The Commission has established a mandatory testing regime and minimum technical standards governing signal quality for cable channels.⁶ These rules provide detailed minimum performance standards for an analog signal, including, among others, signal strength, signal to noise ratio, and separation standards of the video, color, and sound carrier. These tests are generally referred to as Proof of Performance and are intended to ensure that cable subscribers receive a good quality signal. Operators are required to perform these tests at least twice yearly and make available the results for

¹ Letter dated April 27, 2009 ("RCN Petition").

² 47 C.F.R. § 76.601 (2009).

³ *RCN Petition* at 2.

⁴ See Appendix for the complete list of FCC Community Unit Identifiers included in the RCN Petition. Some of the communities for which RCN has requested relief are registered as non-cable entities. As such, they were not originally subject to the provisions of 47 C.F.R. § 76.601 and no relief is necessary.

⁵ *Public Notice, Special Relief and Show Cause Petitions*, CSR-8166, (June 5, 2009).

⁶ *Cable Television Technical and Operational Requirements*, MM Docket 91-169, Report and Order, 7 FCC Rcd 2021 (1992). See also, *Petitions for Reconsideration*, Memorandum Opinion and Order, 7 FCC Rcd 8676 (1992).

inspection by the local franchising authority and the Commission.⁷

3. The Commission specifically contemplated that compliance with the Proof of Performance standards may not be possible for all future developments in cable plant technology and provided for relief in Section 76.605(b) of the Commission's rules. The transition to digital encoding for cable systems is such a development as the digital waveform no longer has the characteristics Section 76.605(a) seeks to measure. Most cable operators who have transitioned to digital service, however, continue to maintain some analog service on their systems. For these cable systems, Proof of Performance tests are still required for their analog channels.

4. RCN states that it has completely transitioned the systems at issue to all-digital operation and maintains no analog carriers thereon.⁸ Sections 76.605(a)(1)-(11) of the Commission's rules specifically deal with characteristics of analog signals that are not present with digital transmission. The Commission has not yet developed appropriate standards for digital transmission. Consequently, it is appropriate to grant relief from the testing and compliance required by Section 76.601. However, we maintain the requirement to measure signal leakage on all frequencies as required by Section 76.605(a)(12).

5. Requiring RCN to perform Proof of Performance tests as written on its all-digital systems and maintain the results for inspection imposes an unnecessary expense and provides no benefit to the public. Therefore, we find relieving RCN of their testing obligation to be in the public interest. We find no reason to suspect that the suspension of these rules will result in degradation of the signal quality received by subscribers. Further, at this time, we find it unnecessary to impose special technical requirements to ensure an equivalent level of good quality service as provided for by Section 76.605(b). We note, however, that RCN must continue to meet the ultimate obligation to provide a good quality signal to subscribers and to comply with the complaint resolution provisions in Section 76.1713.⁹

6. Therefore, we grant RCN relief from Section 76.601 of the Commission's rules as it pertains to Sections 76.605(a)(1) through Section 76.605(a)(11) for the systems at issue until such time when the Commission may revise the rules to adequately address systems utilizing all-digital transmission.

III. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED**, pursuant to Sections 0.61, 0.283, 1.3, and 76.605(b) of the Commission's Rules; 47 C.F.R. §§ 0.61, 0.283, 1.3, & 76.605(b); the petition of RCN Corporation for relief from Section 76.601 as it pertains to Sections 76.605(a)(1) through Section 76.605(a)(11) of the Commission's Rules; 47 C.F.R. §§ 76.601 & 76.605(a)(1)-(11); **IS GRANTED**.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake
Chief, Media Bureau

⁷ 47 C.F.R. § 76.1704 (2009).

⁸ *RCN Petition at 2*, ("the systems now operate in an all digital environment.").

⁹ 47 C.F.R. § 76.1713 (2009).

Appendix

List of Communities and Legal Name of Operator for which RCN has requested relief:

RCN BECOCOM, INC. Boston, MA System:

<u>CUID</u>	<u>COMMUNITY NAME</u>	<u>COUNTY</u>
MA0347	SOMERVILLE	MIDDLESEX
MA0351	DEDHAM	NORFOLK
MA0352	BROOKLINE	NORFOLK
MA0355	LEXINGTON	MIDDLESEX
MA0356	FRAMINGHAM	MIDDLESEX
MA0357	BURLINGTON	MIDDLESEX
MA0359	WAKEFIELD	MIDDLESEX
MA0361	ARLINGTON	MIDDLESEX
MA0362	NEWTON	MIDDLESEX
MA0363	WOBURN	MIDDLESEX
MA0364	NATICK	MIDDLESEX
MA0365	NEEDHAM	NORFOLK
MA0366	STONEHAM	MIDDLESEX
MA0431	MILTON	NORFOLK
* MAA001	CITY OF BOSTON	SUFFOLK
* MAA002	CITY OF WALTHAM	MIDDLESEX
* MAA003	TOWN OF WATERTOWN	MIDDLESEX

RCN TELECOM SERVICES OF ILLINOIS LLC Chicago, IL System:

<u>CUID</u>	<u>COMMUNITY NAME</u>	<u>COUNTY</u>
IL1663	CHICAGO	COOK
IL1750	SKOKIE	COOK

STARPOWER COMMUNICATIONS, LLC D/B/A RCN Washington, DC System:

	<u>CUID</u>	<u>COMMUNITY NAME</u>	<u>COUNTY</u>
*	DCA001	WASHINGTON, DC	
	MD0452	MONTGOMERY COUNTY	MONTGOMERY
*	MDA001	GAITHERSBURG	MONTGOMERY
	VA0620	FALLS CHURCH	FAIRFAX

RCN TELECOM SERVICES, INC New York City, NY System:

	<u>CUID</u>	<u>COMMUNITY NAME</u>	<u>COUNTY</u>
*	NYA001	CITY OF NEW YORK	

* Indicates communities registered as non-cable entities.